

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ALFONSO RIVERA-GUADIANA, #155266

PETITIONER

VERSUS

CIVIL ACTION NO. 1:12-cv-00049-HSO-RHW

RON KING,
Superintendent

RESPONDENT

**ORDER ADOPTING REPORT AND RECOMMENDATION,
GRANTING PETITIONER'S MOTION TO DISMISS, AND DISMISSING
PETITIONER'S 28 U.S.C. § 2254 PETITION WITHOUT PREJUDICE**

This matter comes before the Court on the Report and Recommendation [14] of United States Magistrate Judge Robert H. Walker entered on June 4, 2012, recommending that Petitioner's Motion to Dismiss [10] be granted and that his 28 U.S.C. § 2254 Petition [1] be dismissed without prejudice. No written objections to the Magistrate Judge's Report and Recommendation [14] have been filed. Where no party files specific objections to a magistrate judge's report and recommendation, the district court reviews the report and recommendation for findings and conclusions that are clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1); *see United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Based on the record before the Court, the undersigned finds that the Magistrate Judge properly recommended that Petitioner's Motion to Dismiss [10] be granted and that his 28 U.S.C. § 2254 Petition [1] be dismissed without prejudice. After referral of hearing by this Court, no objections having been filed, and the Court, having fully reviewed the same as well as the record in this matter, and being duly advised in the premises, finds that the Magistrate's Report and

Recommendation [14] should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [14] of United States Magistrate Judge Robert H. Walker entered on June 4, 2012, is adopted in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Petitioner's Motion to Dismiss [10] is **GRANTED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Petitioner's 28 U.S.C. § 2254 Petition [1] is **DISMISSED WITHOUT PREJUDICE**. A separate judgment will be entered in accordance with this Order as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 19th day of July, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE